

AMENDED IN ASSEMBLY AUGUST 19, 2004

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SENATE BILL

No. 1380

Introduced by Senator Escutia
(Coauthor: Assembly Member Nation)

February 18, 2004

An act to amend Sections 60227 and 60242 of, and to add Section 60200.1 to, the Education Code, relating to instruction, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1380, as amended, Escutia. Instructional materials.

Existing law requires the State Board of Education to adopt at least 5 separate basic instructional materials, as defined, for use in kindergarten and each of grades 1 to 8, inclusive, in language arts, mathematics, science, social science, bilingual or bicultural subjects, and any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable. Existing law requires the state board to ensure that basic instructional materials meet certain specified criteria.

Existing law establishes the State Instructional Materials Fund and continuously appropriates the money in the fund to the State Department of Education. ~~A Existing law authorizes a school district is authorized~~ to use allowances received from the fund to purchase instructional materials adopted by the state board, to purchase instructional materials from any source, to purchase tests, to bind basic textbooks, to fund in-service training related to instructional materials, and to purchase classroom library materials for kindergarten and grades 1 to 4, inclusive.

Existing law, until January 1, 2007, requires the State Department of Education, prior to conducting a followup adoption, to notify all publishers and manufacturers known to produce basic instructional materials in that subject, that a fee will be assessed based on the number of programs the publisher or manufacturer indicates will be submitted. Existing law continuously appropriates to the department the revenue derived from this fee and makes the revenue available to the department from year to year until expended.

This bill would require the state board to annually solicit recommendations from school districts regarding the adoption of instructional materials. The bill would require the state board to adopt instructional materials recommended by a school district, ~~charter school~~, or county office of education, unless the state board, within 90 calendar days, makes written factual findings that the instructional materials lack certain specified criteria. The bill would, in addition, require the followup adoption fee to be based on instructional materials reviewed pursuant to these provisions.

This bill would also authorize a school district to use allowances received from the fund to purchase instructional materials adopted by the state board after recommendation by a school district. By expanding the purposes for which moneys from the fund may be used, the bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) It is the intent of the Legislature to provide
- 2 to local educational agencies a process that is consistent with the
- 3 implementation standards-based reforms and the principle of local
- 4 control and by which they may identify, evaluate, and recommend



1 instructional materials to the State Board of Education. The
2 Legislature recognizes that a local educational agency must
3 possess both the authority and responsibility to provide quality
4 education for all pupils and be held accountable for the results of
5 those efforts. The alternative process established by this act is
6 intended to supplement, rather than replace, the instructional
7 materials adoption process.

8 (b) The evaluation and review process of instructional
9 materials is an opportunity for a local educational agency to create
10 support and focus among teachers, administrators, the governing
11 board, and parents. This alternative process can meet or exceed the
12 depth and rigor of the process currently used by the State Board of
13 Education in its evaluation and selection of instructional materials.

14 (c) Because a local educational agency will invest considerable
15 fiscal, human, and educational resources in recommending
16 instructional materials to the State Board of Education, it is the
17 intent of the Legislature to accord deference to those
18 recommendations by requiring the State Board of Education to
19 review the recommendations based strictly and solely on the
20 criteria identified in Section 60200.1 of the Education Code.

21 SEC. 2. Section 60200.1 is added to the Education Code, to
22 read:

23 60200.1. (a) Commencing on January 1, 2006, the state
24 board shall annually solicit recommendations from school districts
25 regarding the adoption of instructional materials in those
26 categories enumerated by subdivision (a) of Section 60200 and in
27 English language development.

28 (b) Instructional materials recommended by a school district
29 shall be adopted, unless the state board, within 90 calendar days,
30 makes written factual findings specific to the particular
31 instructional materials, setting forth specific facts regarding the
32 absence of any of the following:

33 (1) Alignment of the instructional materials to standards;
34 ~~frameworks, and criteria~~ adopted by the state board for the
35 category and grade level in which the instructional materials are
36 to be used.

37 (2) *A map demonstrating the full alignment of the*
38 *recommended materials to the relevant grade level, state adopted*
39 *content standards, and curriculum frameworks.*

(3) A basis of scientific evidence supporting the content and approach of the instructional materials. That evidence may include research studies conducted by the publisher that have been independently reviewed, evidence from federal clearinghouses, or refereed academic journals.

~~(3)–~~

(4) A narrative of the evaluation or piloting process, or both, of the school district, that led to the recommendation of the instructional materials, and an explanation for the recommendation of the school district that the instructional materials are desirable and appropriate for use.

~~(4)–~~

(5) A resolution of the governing board of the school district, adopted in a public hearing, that approves of the use of the instructional materials.

~~(5)–~~

(6) Documentation from the publisher or manufacturer of the instructional materials of compliance with the state board's guidelines for social content.

(c) This section does not exempt a publisher or manufacturer of instructional materials from the requirements or provisions of this part.

(d) (1) The exclusive representative of certificated employees has the right to consult with the governing board regarding the selection of instructional materials to be recommended for adoption.

(2) A majority of a review committee convened by a school district for the purpose of the selection of instructional materials to be recommended for adoption shall be comprised of classroom teachers serving pupils in the grade in which the instructional materials are to be used.

(e) (1) For purposes of this section, "school district" means a school district or a county office of education.

(2) For purposes of this section, "instructional materials" includes textbooks, instructional technology, supplementary materials, or a grouping of two or more of these types of instructional materials from one or more source or publisher.

SEC. 3. Section 60227 of the Education Code is amended to read:

1 60227. (a) For purposes of this section, a followup adoption
2 is any adoption other than the primary adoption that occurs within
3 a six- or eight-year cycle established pursuant to subdivision (b)
4 of Section 60200.

5 (b) Before conducting a followup adoption in a given subject,
6 the department shall provide notice, pursuant to subdivision (c), to
7 all publishers or manufacturers known to produce basic
8 instructional materials in that subject, post an appropriate notice
9 on the department's Internet site, and take other reasonable
10 measures to ensure that appropriate notice is widely circulated to
11 potentially interested publishers and manufacturers.

12 (c) The notice shall specify that each publisher or manufacturer
13 choosing to participate in the followup adoption shall be assessed
14 a fee based upon the number of programs the publisher or
15 manufacturer indicates will be submitted for review and the
16 number of grade levels proposed to be covered by each program.
17 A fee shall also be based on the cost of review of instructional
18 materials conducted pursuant to subdivision (b) of Section
19 60200.1, if applicable.

20 (d) The fee shall offset the cost of conducting the followup
21 adoption process and shall reflect the department's best estimate
22 of the cost. The department shall take reasonable steps to limit
23 costs of the followup adoption and to keep the fee modest,
24 recognizing that some of the work necessary for the primary
25 adoption need not be duplicated.

26 (e) The department, prior to incurring substantial costs for the
27 followup adoption, shall require that a publisher or manufacturer
28 who wishes to participate in the followup adoption first declare the
29 intent to submit one or more specific programs for the followup
30 adoption and specify the specific grade levels to be covered by
31 each program. After a publisher or manufacturer has declared the
32 intent to submit one or more programs and the grade levels to be
33 covered by each program, a fee shall be assessed by the
34 department. The fee shall be payable by the publisher or
35 manufacturer even if the publisher subsequently chooses to
36 withdraw a program or reduce the number of grade levels covered.
37 A submission by a publisher or manufacturer may not be reviewed
38 for purposes of adoption, either in a followup adoption or in any
39 other primary or followup adoption conducted thereafter, until the
40 fee assessed has been paid in full.

1 (f) (1) It is the intent of the Legislature that the fee not be so
2 substantial that it prevents small publishers or manufacturers from
3 participating in a followup adoption.

4 (2) Upon the request of a small publisher or manufacturer, the
5 State Board of Education may reduce the fee for participation in
6 the followup adoption.

7 (3) For purposes of this section, “small publisher” and “small
8 manufacturer” mean an independently owned or operated
9 publisher or manufacturer who is not dominant in its field of
10 operation, and who, together with its affiliates, has 100 or fewer
11 employees, and has average annual gross receipts of ten million
12 dollars (\$10,000,000) or less over the previous three years.

13 (g) Notwithstanding subdivision (b) of Section 60200, if the
14 department determines that there is little or no interest in
15 participating in a followup adoption by publishers and
16 manufacturers, it shall recommend to the State Board of Education
17 that the followup adoption not be conducted, and the State Board
18 of Education may chose not to conduct the followup adoption.

19 (h) Notwithstanding Section 13340 of the Government Code,
20 revenue derived from fees charged pursuant to subdivision (c) is
21 hereby continuously appropriated and available to the department
22 from year to year until expended. Revenue derived from fees
23 charged pursuant to subdivision (c) may be used to pay costs
24 associated with any followup adoption and any costs associated
25 with the review of instructional materials.

26 (i) This section shall remain in effect only until January 1,
27 2007, and as of that date is repealed, unless a later enacted statute,
28 that is enacted before January 1, 2007, deletes or extends that date.

29 SEC. 4. Section 60242 of the Education Code is amended to
30 read:

31 60242. (a) The state board shall encumber the fund for the
32 purpose of establishing an allowance for each school district,
33 which may reflect increases or decreases in enrollment, that the
34 district may use for the following purposes:

35 (1) To purchase instructional materials adopted by the state
36 board pursuant to Section 60200 or 60200.1 for kindergarten and
37 grades 1 to 8, inclusive, or by the governing board pursuant to
38 Section 60400 for grades 9 to 12, inclusive. A school district may
39 purchase with funds received pursuant to Chapter 3.25
40 (commencing with Section 60420) instructional materials for the

1 visual and performing arts, foreign language, health, or any other
2 curricular area if those materials are adopted by the state board
3 pursuant to Section 60200 or 60200.1 for kindergarten and grades
4 1 to 8, inclusive, or by the governing board pursuant to Section
5 60400 for grades 9 to 12, inclusive, and if the school district
6 certifies that it has provided each pupil with a standards-aligned
7 textbook or basic instructional materials in reading/language arts,
8 mathematics, history/social science, and science.

9 (2) To purchase, at the district's discretion, instructional
10 materials, including, but not limited to, supplementary
11 instructional materials and technology-based materials, from any
12 source.

13 (3) To purchase tests.

14 (4) To bind basic textbooks that are otherwise usable and are on
15 the most recent list of basic instructional materials adopted by the
16 state board and made available pursuant to Section 60200 or
17 60200.1.

18 (5) To fund in-service training related to instructional
19 materials.

20 (6) To purchase classroom library materials for kindergarten
21 and grades 1 to 4, inclusive.

22 (b) The state board shall specify the percentage of a district's
23 allowance that is authorized to be used for each of the purposes
24 identified in subdivision (a).

25 (c) Allowances established for school districts pursuant to this
26 section shall be apportioned in September of each fiscal year.

27 (d) (1) A school district that purchases classroom library
28 materials, shall, as a condition of receiving funding pursuant to this
29 article, develop a districtwide classroom library plan for
30 kindergarten and grades 1 to 4, inclusive, and shall receive
31 certification of the plan from the governing board of the school
32 district. A school district shall include in the plan a means of
33 preventing loss, damage, or destruction of the materials.

34 (2) In developing the plan required by paragraph (1), a school
35 district is encouraged to consult with school library media teachers
36 and primary grade teachers and to consider selections included in
37 the list of recommended books established pursuant to Section
38 19336. If a school library media teacher is not employed by the
39 school district, the district is encouraged to consult with a school

1 library media teacher employed by the local county office of
2 education in developing the plan.
3 (3) To the extent that a school district or county office of
4 education already has a plan meeting the criteria specified in
5 paragraphs (1) and (2), no new plan is required to establish
6 eligibility.

